

Interview by Navigant Consulting
with Keith Enerson

at footnote(s):

158



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Memorandum

To: SDCERS file

From: Helen Chang and Amanda Massucci

Date: December 12, 2005

Re: Meeting with Keith Enerson, Former SDCERS Board President, on December 2, 2005

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On December 2, 2005, Amanda Massucci and Helen Chang met with Keith Enerson, former Assistant Chief of Police and President of the SDCERS Board, at his home in San Diego.

This memorandum summarizes the interview, and is not a verbatim transcript of the interview. We have incorporated into this memorandum our thought processes and analysis, including the choice of which questions and answers were sufficiently significant to memorialize. This memorandum has not been shown to or reviewed, signed, approved or adopted by Mr. Enerson.

We began the interview by allowing Mr. Enerson to review the "Notice Concerning Interview" prepared by Fred Reish of Reish Luftman Reicher & Cohen, describing among other things, Navigant's role in the independent investigation and attorney-client privilege. He acknowledged that he understood the notice and did not have any questions.

Background

We asked Mr. Enerson when he first started serving as an SDCERS Board member. He confirmed that he served on the SDCERS Board from 1985 through 1999, when he retired. He was a City employee for 38 years. He confirmed that he was the Assistant Chief of Police when he retired.

Meeting with Keith Enerson, Former SDCERS Board President

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We asked Mr. Enerson to describe his communication with Board members and SDCERS Staff (i.e., via email, memos, etc.) He responded that there were not very many emails during the mid 90s. It wasn't until the late 90s, around 1997, when people got individual computers. Communication was mostly through memos.

We asked Mr. Enerson whether he was elected by the Board or ran for President. He stated he was elected by the Board. He confirmed that he served as President from 1994 to 1999 and was replaced by Fred Pierce.

We asked Mr. Enerson how the Board operated during his tenure. He stated there were various committees, i.e., disability retirement, finance, and procedures. He mentioned that they could never figure out disability. They spent approximately three years developing the financial allocation of the Board's investments. When he first started, all the money was invested with one money manager. The allocation they came up with is still in effect today and the money is well managed.

We asked if Mr. Enerson served on the Business and Procedures' Committee. He stated maybe early on but as President, he was technically not on a committee, but instead oversaw all of them.

We asked Mr. Enerson what he meant when he said disability could never get figured out. He responded that there was real contention on disability, i.e., what it takes to get on disability, how to stay on disability, etc. It was an adversarial topic. He clarified that when employees retire on disability, they get a greater percentage of pay, tax free. He stated that this is still a problem today.

SDCERS' Actuary

We confirmed with Mr. Enerson that Rick Roeder was the SDCERS' actuary while Mr. Enerson retired from the Board. We asked why the Board changed from Buck Consulting to Mr. Roeder and he responded that he didn't know. Mr. Enerson stated he did not communicate with Mr. Roeder. Larry Grissom (SDCERS Retirement Administrator) or Doug McCalla (SDCERS Chief Investment Officer) served as Mr. Roeder's primary contacts.

We asked Mr. Enerson if he knew why the System changed from EAN to PUC funding. He said he can't recall why they changed. We asked who raised the idea for the change. He responded the City Auditor, but his memory may not be accurate. He recalls that they wanted to level out the funding, make it smoother instead of having peaks and valleys.

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
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We asked Mr. Enerson if he remembered other changes to the System or actuarial assumptions. He did not recall any.

SDCERS' Fiduciary Counsel

We confirmed with Mr. Enerson that Dwight Hamilton served as fiduciary counsel and prior to that it was Joe Wyatt of Morrison and Forrester.

We asked Mr. Enerson if he remembered how Dwight Hamilton was selected. He said both Mr. Hamilton and Mr. Wyatt were perceived as reputable and competent. Mr. Enerson had seen both of them speak at conferences. Mr. Wyatt was selected to start with but he was getting older and problems began to develop with promptness in getting back to the Board. Mr. Hamilton had very good credentials.

We asked Mr. Enerson if he had any discussions with fiduciary counsel. He responded only at committee or Board meetings.

We asked Mr. Enerson why Bob Blum replaced Mr. Hamilton as fiduciary counsel. He had no recollection of the reason.

We asked who was responsible for managing fiduciary counsel. Mr. Enerson responded Larry Grissom.

SDCERS Staff

We moved to discuss how Mr. Grissom was hired as Retirement Administrator. Mr. Enerson was involved with the selection process but not the interview process. He stated he had no personal involvement. The decision was put to the Board to say "yay" or "nay".

We asked Mr. Enerson who was responsible for supervising SDCERS' Staff. He stated that Larry Grissom, Doug McCalla and attorneys had the most contact with Board but that the supervision was "loose"; there was not hands-on managing by the Board.

We asked Mr. Enerson who on the SDCERS' Staff was involved with the hiring and firing of employees. He stated that Mr. Grissom took care of it. The Board never got involved. Mr. Enerson had no actual hands on involvement.

We asked Mr. Enerson if there were any discussions among the Board members about Mr. Grissom's performance as Retirement Administrator. Mr. Enerson stated they would discuss Mr. Grissom's performance on an annual basis. He sat down with Mr.

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
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Grissom three or four times to discuss his performance. He stated that generally the Board was pleased with his performance and the only issue was that sometimes he didn't act as quickly as the Board would have liked. Mr. Enerson could not provide specific examples of when this occurred.

Post-retirement Benefits

We questioned the Board's involvement with retiree benefits. Mr. Enerson stated that most of the Board's involvement was to make "yay" or "nay" votes only. Some were more intimately involved, such as Cruz Gonzales, Bruce Herring, Cathy Lexin, (all three of whom worked for the City Manager) and Ron Saathoff (who was an employee representatives in the meet and confer process), and the City Auditor's representative to a lesser extent.

We asked Mr. Enerson how retiree health benefits came to be. He stated that it was granted to safety members somewhere along the line. All new City employees now are eligible for Medicare.

We showed Mr. Enerson a memo addressed to him from Larry Grissom regarding bifurcated rates. Mr. Enerson only had a vague recollection of this document. He stated that fiduciary counsel had given an unfavorable opinion on bifurcated rates and he recalls that there were discussions about the retiree health benefit, which was not originally part of the benefits. The City paid for it out of a trust account. The City would put money into the Retirement System and the System would administer the benefit. Fiduciary counsel said that retiree health was not the System's responsibility but the City still didn't pay for it. We asked if there were grumblings from the Board around the unfavorable opinion by fiduciary counsel. Mr. Enerson stated he didn't remember but surmises that the City auditor and City Manager weren't happy with the opinion.

We showed Mr. Enerson a memo from him to City Manager Jack McGrory where Mr. Enerson states he was "particularly concerned about the many aspects of the DROP plan." He could not recall this memo. He said that Staff would usually draft his memos and he would sign them and that this particular memo could have been an example of that. He stated that the manager's proposal went through contrary to the memo. Not all aspects of DROP were worked out when they went ahead with the program. He added that there were many drafts on DROP; it was an experimental program to be evaluated after three years (although he didn't think the evaluation ever occurred).

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
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Knowledge of Stabilization Reserve

We asked Mr. Enerson what he remembers of the Actuarial Subcommittee. He could not remember. All he could recall was that they discussed alternate methods of funding, i.e., stabilization, but could not provide any specifics.

We asked Mr. Enerson what he could recall of the Earnings Stabilization Reserve. He could not recall anything.

We inquired who was most knowledgeable of the creation of the reserve accounts. Mr. Enerson stated that Mr. Grissom had the most knowledge on the intricacies of the System's bookkeeping. He also listed the City Manager's office and the City Auditor.

When asked about why funds were transferred from different reserve accounts, Mr. Enerson stated he could not remember the reasons.

We asked about City Auditor Ed Ryan's role at the SDCERS Retirement Board meeting on March 24, 1995 and whether he was threatening. Mr. Enerson replied "yes" and stated that he was "intimidating." However, that was his style and it was the way he operated.

We inquired about the dynamics of the Board in the mid 1990s. Mr. Enerson stated that the City Auditor and City Manager always had an agenda. He questioned if they ever put the System's interest before the City's interests. The union members walked a fine line. Jack Katz didn't know much; John Casey was against everything and everyone was against him; Robert Scannell didn't attend as many meetings as he should have; Ann Burr attended only two meetings; she never showed up. We asked about Gary Kaku's role. Mr. Enerson responded that he was a Board member, a Mayor/Council appointee, who also served on the San Diego County Board. He stated everyone got along but it was not always "warm and fuzzy."

We showed Mr. Enerson a memo from Mr. Grissom to the Retirement Board on the "corridor concept." Mr. Enerson stated he doesn't know what it means. We then asked if the City ever made a cash payment while he was on the Board or if they always used excess earnings. He stated that they mostly used excess earnings; that was the way it has always been.

We asked Mr. Enerson generally how much emphasis or discussion there was on the funding ratio. He stated that he usually looked at the funding ratio to make sure it was "up there" and it was back then. One time it even went to 102%. Once when it was in the high 90s the Mayor wanted to cease funding. Mr. Enerson didn't like that idea and it

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
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never happened. This was under Mayor Susan Golding, around the Republican National Convention in 1996. He mentioned that her chief of staff called him and was unhappy about his lack of support for the idea.

Knowledge of Managers Proposal 1 ("MP1")

We inquired about the manager's proposal. Mr. Enerson recalls that it happened around 1996. He remembered that there were increased benefits, the cap was set at 90% for safety members, and that the DROP program was instituted. These were the key proposals. He also recalled that the proposal asked for less than adequate funding each year but would ramp up contributions until the System was completely whole again. At the end of 9 years the funding would balance out. The last valuation stated that the funding ratio was 96% or 97%. The key provision of the proposal was that if funding fell below 82.3% then "all bets were off." Mr. Enerson stated "Then someone cut a hole in the provision with the 2002 manager's proposal "

We asked what the general consensus was on MP1. Mr. Enerson stated that there were a lot of different feelings. Many were excited about the DROP program. He said there wasn't enough time to fully develop all of the details. With the 82.3% funding floor, the proposal passed.

We asked Mr. Enerson whose idea it was to allow the City to pay less than what was actuarially determined. He responded that it was Mr. McGrory's idea. The Board accepted it because of the 82.3% trigger, which if hit, required the City to ramp up its contribution to get back to a 96% funding level. He stated that the idea could have been initiated months and months before. He stated that the DROP program was conceived by Mr. Saathoff well before MP1. He stated that he voted for DROP although he was opposed to it. He believes that it did the City a big non-monetary disservice. Many people would have left the City but stayed to get extra years of money and these people didn't do that much as employees.

We asked Mr. Enerson what discussions took place around the financial viability of the City and its ability to make future payments. He stated that it was assumed that the City would make necessary business decisions to make those payments.

We inquired about the negotiations with the unions during MP1. Mr. Enerson stated he had no information. We further questioned if others besides Mr. Saathoff were involved with both the Board and the unions. Mr. Enerson stated that the Staff was consulted on the ramifications to the System.

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
Privileged & Confidential

We asked Mr. Enerson how MP1 came to be. He responded that the City was trying to balance its budget. He arrived at this understanding from his many years of experience as a City employee. We asked if he could tie the manager's proposal to a specific event. Mr. Enerson replied that it was either a Board meeting or committee meeting.

We asked Mr. Enerson if he remembered any interactions between Board members, Staff, counsel, etc. regarding changes to the 1996 manager's proposal. He could not recall any specific examples but does not doubt that it happened. He could not recall any changes to the proposal. He stated that sometimes changes happen first then writing happened later. He could not recall any specific examples.

We asked Mr. Enerson if there were discussions about what would happen to the funding ratio if MP1 was adopted. He stated he could not remember any discussions. He added that the stock market was booming and people weren't concerned a whole lot so there weren't a lot of in-depth discussions.

We showed Mr. Enerson Michael Aguirre's Interim Report No. 6 which said that Mr. Enerson worked with Mr. McGrory to develop the manager's proposal. Mr. Enerson claimed that the proposal didn't originate between him and Mr. McGrory. He could not understand the bullet points that followed that statement. In regards to Mr. Aguirre's statement about the February 26 meeting, Mr. Enerson claimed that he doesn't know what Mr. Aguirre is talking about.

We asked Mr. Enerson what he thought of Mr. Grissom's statement that "it looks like the Board is giving the City a lot of money." Mr. Enerson responded that the City had to do something for its employees. If the City got a benefit then its employees had to benefit. It was a "*quid pro quo*"; however, he could not say whether this term was used at the time.

We asked Mr. Enerson if there were discussions on the benefit changes. He could not recall.

We asked if there were discussions regarding fiduciary counsel and why the Board decided to change counsel. Mr. Enerson could not recall the reason for the change. He stated Mr. Wyatt was knowledgeable and ethical. We asked if there were concerns with Mr. Wyatt. Mr. Enerson responded "no"; Mr. Wyatt didn't move fast enough and didn't get reports to the Board in a timely manner. We asked if the Board was dissatisfied with the opinions of Joe Wyatt. Mr. Enerson responded no. We asked if there was anyone pushing to get rid of Mr. Wyatt. Mr. Enerson responded no. Finally we asked whose idea it was to make the change. Mr. Enerson could not recall.

Meeting with Keith Enerson, Former SDCERS Board President

Attorney Work Product
Privileged & Confidential

We showed Mr. Enerson meeting minutes from the June 21, 1996 Retirement Board meeting. We asked why John Katz, Ann Parode and Paul Barnett voted against the manager's proposal. Mr. Enerson could not recall their reasons.

We skipped to John Casey's memo to fiduciary counsel dated July 16, 1996 regarding conflict of interest and asked Mr. Enerson to comment. He stated that the memo was typical of Mr. Casey. We asked him if he could remember any of the concerns outlined in the memo. Mr. Enerson responded "no." We asked if he could recall whether the benefits would go into effect if MP1 was not passed. Mr. Enerson responded that the understanding that the benefits were tied to the Board approving MP1 was implied; everybody understood it.

We showed Mr. Enerson his memo to the Board dated November 1996 regarding strategic planning. The report to this memo was not attached but Mr. Enerson stated that it was an update on the strategic planning process. In reference to where and when the planning retreat was held Mr. Enerson, could not recall any of the details.

CAFR

Finally, we asked Mr. Enerson if he is familiar with CAFRs. He recalls reviewing them. He never received them in advance of the Board meeting in which it was presented.

His Views on the Current State of SDCERS

As a side note, Mr. Enerson stated that "none of this" would have happened if the System kept all of its money. He stated that before he was elected to the Board, the actuary would report the amount of excess earnings to the City before reporting to the Board so that the City could plan. Mr. Enerson attributed this action to the former Administrator. Mr. Enerson also attributed the action of sharing the information to the City before the Board as one of the reasons the former Administrator left, but acknowledged that it was also at the time of the Administrator's retirement. He stated that the 13th check benefit came about because of a lawsuit. If the Board had done things right, there would have been no lawsuit and the money would have stayed with the System. The 13th check was already in place when he started on the Board as a result of the Andrews' litigation. He said that he did not understand why the City paid more benefits than those entitled to the employees.